

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 9070 OF 1996

Date: 31.08.2005

Between:

Shaik Khader Mohidin, S/o Nanne Saheb, aged 58 years, Occ: Senior Branch Manager, Life Insurance Corporation of India, Divisional Office, Machilipatnam, R/o L.I.C.Staff Quarters, Machilipatnam, Krishna District.

... Petitioner

and

1. The Chiarmen, Life Insurance Corporation of India, Central Office, "Yogakshema", Jeevan Bhima Marg, P.O.Box.19953, Bombay – 400 021 and two others.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 9070 OF 1996

ORDER:

-

The proceedings of the 1st respondent dated 13.03.1996, whereby the petitioner was reverted from the post of Senior Branch Manager to the cadre of Administrative Officer, in terms of regulation 16(2) of the Life Insurance Corporation of India (Staff Regulations, 1960, is impugned in this writ petition as being arbitrary and illegal.

Facts, to the extent necessary for the purpose of this writ petition, are that the

petitioner was initially appointed in the Life Insurance Corporation of India as a Development Officer in the year 1963. He was promoted to the cadre of Assistant Manager in the year 1982 and was in-charge Branch Manager from 1986. The petitioner was promoted as Branch Manager in the year 1987 and on 31.05.1995 was promoted to the cadre of Senior Branch Manager and was posted in Machilipatnam Division office.

The petitioner availed sick leave on account of his ill-health.

The impugned order of reversion was passed on 13.03.1996 and served on the petitioner on 09.04.1996, less than a month prior to his retirement on 30.04.1996. Petitioner submits that the impugned order dated 13.03.1996 was issued without asking the petitioner to show cause or without affording him an opportunity of being heard. It is his case that he was deliberately singled out for harassment at the fag end of his career only to deprive him of his status as Senior Branch Manager and other pensionary benefits which accrue to the said post.

This Court, by order dated 25.04.1996, while staying the operative portion of the impugned order dated 13.03.1996, however, observed that since the petitioner was reaching the age of superannuation on 30.04.1996, his terminal benefits be calculated in accordance with the impugned order dated 13.03.1996.

Sri K. Krishna, appearing on behalf of Smt. Vyjayanthi, learned Counsel for the petitioner, would submit that in view of the interim orders passed by this Court, the petitioner retired from service on 30.04.1996 as Senior Branch Manager and received pension as Senior Branch Manager for the month of April, 1996. Learned Counsel would further submit that in compliance with the interim orders of this Court, the petitioner is being paid terminal benefits, to which an Administrative Officer of the Life Insurance Corporation of India is entitled to and that the petitioner is entitled for his terminal benefits being computed, as applicable to the post of Senior Branch Manager.

A Counter affidavit is filed by the respondent, wherein a preliminary objection is taken regarding the maintainability of the writ petition on the ground that the petitioner has an alternative remedy by way of appeal to the 1st respondent. It is further stated that the petitioner had availed sick leave for a considerable period of

183 days during his eleven months of probation as per the detailed chart shown in the counter affidavit, from which it is clear that the petitioner was on leave for 183 days during the period from 12.06.1995 to 29.04.1996 i.e., for a period exceeding six months in the eleven months probationary period. It is the case of the respondents that since the petitioner's performance in the promoted cadre could not be assessed, in view of his continued absence for a period exceeding six months, the impugned proceedings dated 13.03.1996 was issued reverting him to his substantive post of Administrative Officer.

Sri Ch. Srinivas, learned Counsel for the petitioner, would submit that, as per Regulation 16 of the Life Insurance Corporation of India Staff Regulations, an employee promoted to the higher post shall be on probation for a period of one year and that the regulations empower the respondents to revert an employee without notice during the period of his probation. Regulation 16 relates to probation, and reads as under:

“(1). An employee promoted to a higher post shall be treated as on probation in the higher post for a period of one year in the case of promotions to posts belonging to Classes I and II and 6 months in other cases. Provided, however, that the competent authority may in its discretion extend the period of probation, but in no case shall the total period of probation exceed-

- a. *in the case of promotions to posts belonging to Classes I & II
..... 2 years.*
- b. *In other cases.....1 year.*

(2). An employee on probation shall be liable to be reverted without notice at any time.

(3). During the period of probation an employee retains his lien on his lower post and the period shall count a permanent service for all purposes.”

It is clear from Regulation 16(2) that an employee on probation can be reverted without notice during the period of probation. Reversion of the petitioner, vide impugned proceedings dated 13.03.1996, said to have been served on him on 09.04.1996, is well within the probation period of one year and is in accordance with Regulation 16(2) of the Regulations. It is also clear from the impugned order that no stigma is attached to the petitioner, on of his reversion. The reasons stated in the counter affidavit that the petitioner was on leave for more than six months, during the probation period of eleven months, which resulted in the respondents not being in a position to assess his performance, cannot be said to be a reason which does not justify reversion of the petitioner to his substantive post.

The writ petition fails and is accordingly dismissed. It is however made clear that since the petitioner continued to work as Senior Branch Manager, pursuant to the interim orders of this Court and received salary as Senior Branch Manager for the month of April 1996, the said amount paid to him as salary for the month of April, 1996 shall not be recovered from him. It is also made clear that the petitioner is entitled to the terminal benefits and any other amounts liable to be paid to him, which Administrative Officers of the Life Insurance Corporation of India, are entitled to.

RAMESH RANGANATHAN, J

Date: 31.08.2005

MRKR